

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CHRISTOPHER ALLEN BOWEN,

Plaintiff,

V.

Case No. 7:06cv00305

NEW RIVER VALLEY

REGIONAL JAIL,

SOUTHERN HEALTH PARTNERS,

MARGARET FALLS,

and

REBECCA TATUM,

Defendant.

**MOTION TO DISMISS OF DEFENDANT NEW RIVER VALLEY
REGIONAL JAIL AUTHORITY**

COMES NOW a Defendant, New River Valley Regional Jail Authority, mistakenly sued as New River Valley Regional Jail, and moves to dismiss the Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and in support thereof states as follows:

1. New River Valley Regional Jail is not an entity capable of being sued pursuant to 42 U.S. § 1983. McCoy v. Chesapeake Correctional Center, 788 F. Supp. 890 (E.D. Va. 1992).

2. Even if the Court were to grant Plaintiff leave to amend to sue New River Valley Regional Jail Authority, such a suit would only sound in *respondeat superior* and thus would not be appropriate under 42 U.S. § 1983. Monell v. Dept. of Social Services of the City of New York, 436 U.S. 658, 98 S. Ct. 2018, 56 L.Ed.2d 611 (1978).

WHEREFORE, Defendant respectfully moves the Court to dismiss the Complaint for failure to state a claim upon which relief can be granted and for such other relief as the Court may deem appropriate.

NEW RIVER VALLEY REGIONAL JAIL
AUTHORITY

By /s/ Jim H. Guynn, Jr.

Jim H. Guynn, Jr.

VS# #22299

Attorney for Defendant

GUYNN, MEMMER & DILLON, P.C.

P.O. Box 20788

Roanoke, Virginia 24018

Phone: 540-387-2320

Fax: 540-389-2350

CERTIFICATE OF SERVICE

I hereby certify that I have this 7th day of August, 2006, electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to Kevin O. Barnard, Esq., and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: Christopher Allen Bowen, #05-22117, New River Valley Regional Jail, P.O. Box 1067, Dublin, VA 24084 pro se plaintiff.

By /s/ Jim H. Guynn, Jr.